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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,571	09/17/2003	Feng Chen	03-1021	4589

7590 06/05/2006
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EXAMINER
MITCHELL, JASON D

ART UNIT	PAPER NUMBER
2193	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,571	Applicant(s) CHEN ET AL.	
	Examiner Jason Mitchell	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/15/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to an application filed on 9/17/03.

Claims 1-19 are pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claims recite, "wherein the debug data is stored in binary format", the specification provides no further indication of what this 'storing in binary format' entails. For instance the specification discloses, "Then the data is saved into a file, either in binary or plain text format based on user selection" (pg. 9, lines 5-13). However those of ordinary skill will recognize that, in modern computers, "plain text" is in fact ultimately stored in binary format (e.g. ASCII). Resultantly one of ordinary skill would not understand what distinction Applicant intended to make with this disclosure.

Claim 3 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As noted above modern computers represent all data in "binary format", thus the limitation recited in claims 3 and 12 ("wherein the debug data is stored in binary format") makes the intended scope of the claim unclear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-12 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,973,491 to Staveley et al. (Staveley).

Regarding Claims 1, 10 and 18: Staveley disclose running a scan tool (col. 3, lines 41-43 'run individual data collector programs'), wherein the scan tool collects debug data for the product (col. 3, lines 16-20 'Collecting the system information'); sending the debug data to a customer support site (col. 3, lines 49-51 'uploads the configuration information to central site 14'); comparing the debug data to code level data to identify mismatches (col. 5, lines 36-40 'compares the installed version with the latest version'). Staveley does not explicitly disclose running the scan tool in response to a problem at a customer site, but does disclose his invention is 'used to examine ... the system health' (col. 2, lines 50-52). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to run Staveley's scan tool (col. 7, lines 57-59

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'launch the data gathering operation') in response to an indication that the system was in 'ill health', (e.g. having a problem).

Staveley discloses a comparison utility at the client site (col. 5, lines 36-38 'main module 30 ... compares the installed version with the latest version') using data retrieved from the customer support site (col. 5, lines 36-38 'retrieves the version file from the central site').

It would have been obvious to a person of ordinary skill in the art at the time of the invention to move Staveley's comparison utility (col. 5, lines 36-38) to the customer support site ('central site') because one of ordinary skill in the art would have been motivated to use the comparison in the generation of reports (col. 6, lines 44-49 'a list of all local files. The information presented may be ... date and time created [and] messages about the file') to present information regarding available updates to the client (col. 5, lines 38-40 'the latest version is downloaded and installed ... upon user request') and/or the customer support sales staff (col. 11, lines 58-61 'reports may be generated for ... central site sales').

Regarding Claims 2, 11: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses storing the debug data at the customer site (col. 5, lines 56-59 'stores the data in storage location 36').

Regarding Claim 3, 12: The rejections of claims 2 and 11 are incorporated, respectively; further Staveley inherently discloses the debug data is stored in binary format (col. 5, lines 56-59 'stores the data in storage location 36'). Note that the types of computers disclosed in Staveley store any and all information in a binary format.

Regarding Claim 5: The rejection of claim 1 is incorporated; further in view of the modifications discussed in the rejection of claim 1, Staveley teaches sending identified mismatch information to the customer site (col. 11, lines 36-39 'one set of reports may be designed for viewing by client/user personnel'; col. 5, lines 38-40 'the latest version is downloaded and installed ... upon user request').

Regarding Claim 6, 14 and 19: The rejections of claims 1, 10 and 18 are incorporated, respectively; further, in view of the modification discussed in claims 1, 10 and 18 Staveley teaches presenting identified mismatch information to customer service personnel (col. 11, lines 36-39 'another set of reports may be designed for use by personnel at the central site'; col. 11, lines 58-61 'reports may be generated for ... central site sales').

Regarding Claim 7, 15: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses comparing the debug data to code level data includes identifying preferred code levels for the product (col. 5, lines 36-40 'compares the installed version with the latest version').

Regarding Claim 8, 16: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses downloading the scan tool from a Web server (col. 4, lines 8-10 'the updated tool set will be downloaded to the client site'; Fig. 2, 'Web Server 22').

Regarding Claim 9, 17: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses providing the scan tool to the customer through a download (col. 4, lines 8-10 'the updated tool set will be downloaded to the client

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site'). However, official notice is taken that it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the scan tool on a removable storage medium (i.e. install disk).

Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,973,491 to Staveley et al. (Staveley) in view of Steele et al. (Steele).

Regarding Claim 4, 13: The rejections of claims 2 and 11 are incorporated, respectively; further Staveley implies the customer site is protected by a firewall or security check (col. 7, line 33 'checks firewall version') and explicitly discloses placing 'a copy of the full data file in storage location 36' (col. 8, lines 55-60).

Steele teaches a debug data collection wherein the debug data is stored in text format (col. 3, lines 8-10 'The configuration item may be a text file') in an analogous art for the purpose of collecting configuration data (col. 2, lines 16-21 'information gathering to ... aid in managing and troubleshooting networks').

It would have been obvious to a person of ordinary skill in the art at the time of the invention to store the debug data collected in a text file as taught by Steele (col. 3, lines 8-10) because the data represent text entries (Fig. 3-9) and one of ordinary skill would have been motivated to ease access to this data (col. 13, lines 15-20 'a Java base GUI interface is used to access data ... in a data file stored in storage location 36').

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Mitchell whose telephone number is (571) 272-3728. The examiner can normally be reached on Monday-Thursday and alternate Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason Mitchell
5/16/06



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